LIEUTENANT-GOVERNOR

Appointment, Extension and Replacement

I—Position

1. A Lieutenant-Governor is appointed by the Governor General in Council by instrument* under the Great Seal. The recommendation* to Council is made by the Prime Minister.

2. A Lieutenant-Governor begins his period in office when he takes the prescribed oaths*. He cannot be removed from office before five years from that date except for cause. He normally remains in office until his successor takes over sometime after the expiry of that period.

3. Lieutenant-Governors have resigned for reasons of health even within five years of appointment but usually have not formally relinquished the post until a successor has taken office.

4. As the five-year period draws to a close the Prime Minister communicates* with the Lieutenant-Governor regarding the Government's plans for the appointment of a successor or for his continuation in office. It is customary to consult Cabinet and for the Prime Minister to inform the Governor General of an intended new appointment.

5. There is no constitutional requirement to consult the provincial Government about the appointment of the Lieutenant-Governor and no consistent practice has developed. The Prime Minister usually, but not always, informs the provincial Premier of the appointment in advance of a public announcement.

6. Members of Parliament cannot accept an appointment as Lieutenant-Governor and also remain in the House and senators resign on appointment.

7. The appointment being at pleasure no formalities are required to extend a term beyond the customary five years. A Lieutenant-Governor remains in office until his successor takes the prescribed oaths.

8. If a Lieutenant-Governor dies in office a successor should be appointed immediately since an Administrator cannot act when the post is vacant.

9. Lieutenant-Governors are styled “His Honour” while in office. Since 1927 they have been accorded the title “Honourable” for life.
LIEUTENANT-GOVERNOR

Appointment, Extension and Replacement

1. A Lieutenant-Governor's term begins, for all legal and administrative purposes, when he takes the oaths* of office regardless of the wording of the order in council* or the commission* of appointment. The commission is now usually so worded and by its terms supersedes the old on that date when the five-year period under section 59 of the B.N.A. Act commences.

2. It has become the practice to recite, in the order in council* recommending a new appointment, the date of appointment and of assumption of office of the outgoing Lieutenant-Governor in order to establish that he has been in office for more than five years and can therefore be replaced at pleasure. There have been cases where this has not been done or where the cause of a vacancy arising within five years of appointment has not been stated. This has not however affected the validity of the new appointment.

3. In 1963 the order in council and commission appointing the Honourable Earl Rowe to Ontario stated that it was effective 1 February, 1963. Illness prevented him from assuming office at that time and the incumbent remained in office until Mr. Rowe took the prescribed oaths on 3 May when the old term ended and the new began. The order in council no longer specifies an effective date for the appointment.

4. The provision whereby a Lieutenant-Governor cannot be removed within five years except for cause has resulted in the usual term being considered to be about five years. The term can be extended simply by not appointing a successor. The Prime Minister usually consults the Lieutenant-Governor to reach agreement on how long he will remain in office. No formal action by way of order in council or otherwise is however necessary to retain him in office.

5. This interpretation was confirmed by the Department of Justice in 1962. A Lieutenant-Governor holds office during the pleasure of the Governor General and the commission so provides. Section 59 of the B.N.A. Act does not establish a term of office but constitutes a limitation on the Governor General's power to remove. After the expiry of five years a Lieutenant-Governor continues to hold office at the pleasure of the Governor General.

6. Lieutenant-Governors who resign do not formally relinquish their posts until a successor has taken office. An exception occurred in 1968 when the resignation of the Lieutenant-Governor of New Brunswick was implemented by order in council* without the simultaneous appointment of a successor. A new Lieutenant-Governor was however appointed the following day.

7. It is not possible to discern any pattern regarding the length of extensions. However once the five-year period has elapsed a new appointment can be made freely without raising implications of politics or performance.

296
8. There is no fixed practice regarding the announcement of appointments. Some have been announced in Parliament, others not. If the appointee is a member of the Government an announcement in Parliament would be usual.

9. The Governor General wishes to be informed of the intended appointment of Lieutenant-Governors before being asked to take formal action.

10. There is no constitutional requirement to consult the provincial Government which has no authority to reject an appointee. This has not often given rise to overt objections from the provinces but when it has the position has been strongly defended. There was a direct exchange with a protesting Premier in 1945 when Fiset was to be "reappointed" to Quebec; and in 1961, when Comtois was appointed to Quebec, provincial spokesmen publicly criticized the lack of consultation. On the other hand, in 1966 the Prime Minister mentioned in the House of Commons that he had discussed the appointment of the Lieutenant-Governor with the Prime Minister of Quebec. The practice will thus be conditioned by the political relations between the Governments.

11. There have been occasions when there have been purported reappointments to extend terms. In a number of cases new commissions were issued. This is constitutionally questionable and legally inconsequential. The Department of Justice has given the opinion that in the cases of purported reappointment to extend a term the five-year period of non-removal would not run again.

12. There are five instances of purported reappointment. The last on record was in 1945, in Quebec. This case arose from a disagreement between the federal and provincial Governments, the latter claiming the right to participate in the selection of the Lieutenant-Governor. The federal Government denied this right and rather than simply allowing the Lieutenant-Governor to remain on proceeded to reappoint him, to issue a new commission and to have him sworn into office anew.

13. The only case of a real reappointment as distinct from an extension has been that of Sir Leonard Tilley who was Lieutenant-Governor of New Brunswick from 15 November, 1873 to 23 July, 1878 and then again from 12 November, 1885 until 21 September, 1893.

14. The post of Lieutenant-Governor is acknowledged to be one of those under section 10 of the Senate and House of Commons Act which makes the holder ineligible to sit in the Commons. Consequently some appointees have resigned, others have had their seat declared vacant under section 16 of the Act.

15. The provisions for appointing an Administrator to take over during the absence or illness of the Lieutenant-Governor do not apply when the post is vacant. It is therefore imperative that a new appointment be made immediately if a Lieutenant-Governor dies in office in order that the Government of the province may function. Also, because of this situation, a Lieutenant-Governor does not normally vacate the office until the new appointee takes over.
LIEUTENANT-GOVERNOR

Appointment, Extension and Replacement

1. It is the prerogative of the Prime Minister to recommend to Council the appointment of a Lieutenant-Governor. It is customary for him to inform the Governor General before the order in council* is presented for approval.

2. The Prime Minister sends a letter* to the incumbent announcing the intention to appoint a successor and mentioning the approximate date of the take-over about which there will have usually been preliminary discussion with the outgoing Lieutenant-Governor. The Prime Minister's letter also expresses appreciation for the way the post was filled.

3. The order in council* recommending the appointment mentions the date of appointment and of assumption of office of the outgoing Lieutenant-Governor. It no longer fixes a starting date for the new Lieutenant-Governor, but recognizes that the term begins when the oaths* are taken.

4. The commission* bearing the same date as the order in council is signed by the Governor General. It specifies that the appointment is effective at pleasure from the date the prescribed oaths are taken, when the previous appointment is superseded.

5. The Prime Minister issues a press release announcing the appointment. If Parliament is in session the announcement may be made in the Commons. This is not always done but would be usual if the appointee was a member of the Government or of Parliament.

6. The Clerk of the Privy Council sends:
   (i) a copy of the order in council to the Registrar General so that the commission of appointment may be prepared, signed and sent to the appointee through the Secretary of State;
   (ii) a letter* to the appointee transmitting a copy of the order in council and outlining the arrangements for assuming office;
   (iii) a letter* to the Chief Justice of the Province asking him to preside over the ceremony and administer the oaths;
   (iv) a letter* to the Premier advising him of the proposed arrangements; and
   (v) a letter* to the Clerk of the Executive Council requesting his assistance and asking him to co-ordinate the arrangements.

7. The Privy Council Office informs the Secretary of State when the oaths* have been sworn so that salary and allowances may commence.

8. If the appointee is a member of Parliament he either resigns his seat or a notice of vacancy is given according to the House of Commons Act.

298
9. If it is desired to implement the resignation of a Lieutenant-Governor without concurrently appointing a successor, an order in council* accepting the resignation is passed. This order should refer to the commission by which the appointment of the resigning Lieutenant-Governor was made.
LIEUTENANT-GOVERNOR

Appointment, Extension and Replacement

Letter from Prime Minister to outgoing Lieutenant-Governor
Order in council for issue of commission of appointment as Lieutenant-Governor when predecessor is in office
Order in council for issue of commission of appointment as Lieutenant-Governor when predecessor has died
Commission of appointment as Lieutenant-Governor; together with annexed Instructions
Letter from Clerk of Privy Council to appointee outlining arrangements for assuming office
Letter from Clerk of Privy Council to Chief Justice of Province asking him to administer oaths to appointee
Letter from Clerk of Privy Council to provincial Premier advising him of proposed arrangements for induction of new Lieutenant-Governor
Letter from Clerk of Privy Council to Clerk of Executive Council asking him to co-ordinate arrangements for induction of new Lieutenant-Governor
Order in council of 9 June, 1945 appointing Fiset as Lieutenant-Governor of Quebec (reappointment)
Letter from Prime Minister to Lieutenant-Governor regarding extension of the latter's term of office
Order in council for acceptance of resignation of Lieutenant-Governor
Oaths taken by Lieutenant-Governor of province other than Quebec
Oaths taken by Lieutenant-Governor of Quebec

300
LIEUTENANT-GOVERNOR

Removal

1. During his first five years in office a Lieutenant-Governor can only be removed for cause, communicated to him and to the Senate and House of Commons.

2. After five years in office a Lieutenant-Governor can be removed by the appointment of a replacement. In such a case no cause need be assigned since the appointment is at pleasure without a specific term.
LIEUTENANT-Governor

Removal

1. Two Lieutenant-Governors have been removed before the expiry of five years in office.

2. Mr. Letellier had been appointed to Quebec by the Mackenzie Administration in December 1876. In March 1878 the Lieutenant-Governor dismissed his provincial ministers and this action was criticized in resolutions of the Senate and of the House of Commons. The latter, dated 11 March, 1879, described this action as “unwise and subversive”.¹ The Prime Minister, Sir John A. Macdonald, recommended to the Governor General that Letellier be removed but agreed to have the Governor General refer the case to London for advice as this was the first instance when section 59 of the B.N.A. Act was being applied. London replied that the Governor General should act on his ministers’ advice in this matter and without expressing a view on the substance of the complaint advised a reconsideration by the Canadian Government. London noted that the difference in politics between the federal government and the Lieutenant-Governor would not be a reason for exercise of the right to remove. Macdonald’s Cabinet reconsidered the case and passed an order in council sustaining their recommendation that Letellier should be removed since his “usefulness as a Lieut.: Governor was gone”.² On 25 July, 1879 the Governor General approved this recommendation which was communicated to the Senate and House of Commons when the next session of Parliament met in February 1880. There are indications that some contemporary observers felt that partisan political considerations were an element in the Government’s judgement that the Lieutenant-Governor’s action justified his removal.

3. The other case of removal concerned the Honourable T. R. McInnes of British Columbia who was both appointed and dismissed by the Laurier Administration, also because of his handling of the provincial Government. He was seriously criticized for having dissolved the provincial legislature rather than having attempted to form another Government. The order in council* dated 21 June, 1900 recommending dismissal was patterned after that used in Letellier’s case but there had been no prior resolutions of the Senate and House of Commons which were subsequently informed* about the action taken, according to section 59 of the B.N.A. Act.

Dismissal having been recommended by the appointing Administration there was no question of partisan political considerations being a factor. The correspondence does, however, indicate that there may have been ground for the Lieutenant-Governor to think that he had received instructions from

² From order in council P.C. 1105 of 25 July, 1879.
the Secretary of State to take the action for which he was subsequently criticized and dismissed.

4. No case for dismissal has arisen since although on at least one occasion, when action by a Lieutenant-Governor in reserving a bill was not approved, the possibility of removal was considered.
Removal

1. Removal is effected under section 59 of the B.N.A. Act. It is brought about by order in council* on the recommendation of the Prime Minister stating the cause which is communicated to the Lieutenant-Governor within one month after the order in council is approved.

2. This cause must also be communicated by message* to the Senate and House of Commons within one week after the order in council is approved if Parliament is then sitting and if not then within one week after the commencement of the next following session of Parliament.
LIEUTENANT-GOVERNOR

Removal

Order in council for removal of Lieutenant-Governor

Extract from Journals of the Senate regarding message to Senate communicating cause of removal of Lieutenant-Governor

305
LIEUTENANT-GOVERNOR

Leave of Absence

1. A Lieutenant-Governor is required by his Instructions to get permission to leave his Province.

2. Leave of absence for holidays or personal reasons is granted by the Secretary of State without further consultation in routine cases.

3. Leave of absence for official purposes is granted after consultation with the Secretary of State for External Affairs and the Prime Minister, as the Secretary of State may deem advisable in each case.
LIEUTENANT-GOVERNOR

Leave of Absence

1. Requests from Lieutenant-Governors to be absent on leave or on personal business are sent to the Secretary of State and permission is granted in his name, as a matter of routine, by the Under Secretary of State.

2. Where the purpose of the absence is to undertake an official mission abroad the case receives more thorough consideration. The Prime Minister instructed the Secretary of State in 1965 that the Secretary of State for External Affairs should be consulted and, if necessary, the Prime Minister.

3. Those new instructions were issued because official visits abroad by Lieutenant-Governors could expose the Queen’s representative to criticism, could create problems in the external field and raised the question of the provincial role in external relations.

4. The Lieutenant-Governor of Nova Scotia made an official trip to Germany in 1964 on a trade mission without having sought permission and a similar trip to Japan in 1965 after consultation with Ottawa.

5. Before 1953 permission for a Lieutenant-Governor to leave the province was granted by order in council in each case and an Administrator similarly appointed for each absence. In late 1952 it was decided that since Administrators would be appointed in future on a standing basis, the Secretary of State could henceforth authorize leave without going to Council.
LIEUTENANT-GOVERNOR

Leave of Absence

1. Permission for leave of absence for reasons of health or for personal or official travel is sought by letter addressed to the Secretary of State. This may come from the Lieutenant-Governor or be written on his behalf. The request is assumed to have the concurrence of the provincial Government and the specific recommendation of the Premier is not required.

2. If the absence is for official purposes information to this effect is required and the Secretary of State will decide whether to consult with the Secretary of State for External Affairs and the Prime Minister before granting permission.

3. Permission is granted by message from the Under Secretary of State conveying the approval of the Secretary of State.
LIEUTENANT-GOVERNOR

Powers and Duties

1. The powers and duties of a Lieutenant-Governor are set out in the B.N.A. Act, sections 58-67 and 90, in Instructions* dated 1952, and in orders in council.

2. The Lieutenant-Governor occupies a formal position similar to that of the Governor General prior to 1926. He is the representative of Her Majesty for all purposes of the provincial Government. He is also a federal officer governed by Instructions issued by the Governor General and by orders in council.

3. As the Queen's representative he is head of the provincial Government and as a federal officer he was originally regarded as being responsible for maintaining the federal interest in that Government.

4. The B.N.A. Act confers on Lieutenant-Governors the power to assent to, withhold assent from or reserve provincial bills.

5. Claims made from time to time for special powers under section 64 of the B.N.A. Act, which declares that the executive authority in Nova Scotia and New Brunswick shall continue as at the Union until altered, are becoming ineffective under the weight of constitutional precedent favouring uniformity of practice.
LIEUTENANT-Governor

Powers and Duties

1. Formal Instructions signed by the Governor General in the same terms for each Lieutenant-Governor were first approved and issued in 1887. They are largely administrative rather than political in content and have remained virtually unchanged. The present version*, unchanged since 1952, was last amended by order in council in 1950.

2. The Instructions for Quebec* differ from the others by covering two special points made in the B.N.A. Act, in section 73 regarding members of the Legislative Council and in section 80 regarding the 13 Quebec electoral districts which at the time of Confederation were English protestant. Instructions for Quebec are now issued in French.

3. There has been no question about the requirement for a Lieutenant-Governor to follow specific instructions given by the Governor General in Council on a particular issue but there appears to be some uncertainty about the continuing validity of any such instructions which go beyond the terms of the formal Instructions from the Governor General to the Lieutenant-Governor. The terms of the commission of appointment of the Lieutenant-Governor and of orders in council containing specific or general instructions do not support this interpretation of the limited validity of order in council instructions. Nevertheless any practical difficulty which could arise from this uncertainty can be avoided by re-issuing specific instructions by order in council in any situation where the Government wishes to control the Lieutenant-Governor’s action.

4. The Judicial Committee of the Privy Council laid down in 1892 that “...a Lieutenant-Governor, when appointed, is as much the representative of Her Majesty for all purposes of provincial government as the Governor General himself is for all purposes of Dominion government”.¹

5. This has not caused great difficulty. There is however some uncertainty about the position and status of a Lieutenant-Governor when outside his Province, either on leave or on official occasions.

6. Being selected, appointed, instructed, paid and replaced by the Governor General on the advice of the Government a Lieutenant-Governor is also, in theory, a federal officer. He was originally regarded as being responsible for maintaining the federal interest in the provincial Government. In practice this aspect of the Lieutenant-Governor’s functions has fallen into disuse.

7. The authority to assent or withhold assent to bills and to reserve bills is specifically conferred on the Lieutenant-Governor by the B.N.A. Act. It was

¹ Lord Watson in Liquidators of the Maritime Bank v. The Receiver-General of New Brunswick, 1892 A.C. 437, at 443.
recognized in an order in council* as early as 1882 that a Lieutenant-Governor was not warranted in reserving any measure on the advice of his provincial ministers but that he should do so only in his capacity as a Dominion officer and on instructions from the Governor General. Only in a case of extreme necessity should a Lieutenant-Governor act in this field without instructions. This view has been reiterated, in 1924 and latterly in 1961.

8. This principle was recognized in 1961 by the Prime Minister in the House of Commons. At that time the Premier of Saskatchewan confirmed his support of this position in a letter to the Prime Minister.

9. This, the most recent case of reservation without instructions, occurred in Saskatchewan in 1961. The Minister of Justice reported to Council that contrary to the opinion of the Lieutenant-Governor he did not consider the bill to be ultra vires the provincial Legislature nor that it was in conflict with national policy or interest. Council also concluded that the bill was not otherwise objectionable so as to "... warrant departure from the normal course of recommending assent".1 The Governor General therefore assented to the bill.

10. The position in regard to withholding assent by a Lieutenant-Governor, which amounts to a veto, is somewhat less clear. The order in council* of 1882 stated that the royal veto was obsolete in England and implied that it should therefore not be exercised by a Lieutenant-Governor. Nevertheless, in 1924 assent was withheld to a Prince Edward Island bill and without instructions. The federal Government viewed this action with regret but its validity was uncontested. These views expressed in an order in council were transmitted to Prince Edward Island for information. In 1945 assent was withheld from another bill in Prince Edward Island. This action was simply noted in an order in council without comment or reference to earlier instructions or to constitutional practice. A judgement of the Prince Edward Island Supreme Court arising from the situation thus created treats the action of withholding assent as valid.

11. The resulting situation is that while the power of veto may be obsolete in England and while it has been stated in orders in council that assent should not be withheld without instructions from the Governor in Council, this power can in law still be validly exercised by a Lieutenant-Governor as a matter of independent discretion. The order in council of 1924 recognized that there was no way to overcome the effect of withholding consent except to have the bill passed by the legislature again and presented anew for assent. Furthermore, the Supreme Court of Prince Edward Island in Gallant v. The King2 found that it was ineffective to have a successor Lieutenant-Governor give assent to the bill without its re-passage through the legislature.

12. An amendment to the Instructions* issued to Lieutenant-Governors by the Governor General could clarify the requirement to act only on instructions

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2 (1949) 2 D.L.R. 425.
although there is an opinion that it may not be possible to eliminate entirely the discretion of the Lieutenant-Governor conferred in the *B.N.A. Act*. Furthermore, while an amendment of the Instructions would be both simple and tidy this would establish a mandatory federal responsibility which, in some situations, might not be politically desirable.

13. The subsistence of the right of reservation by the Lieutenant-Governor was confirmed by the Supreme Court of Canada in a constitutional reference in 1938. In that judgement the Chief Justice said, “The power of reservation is subject to no limitation or restriction, except in so far as his discretion in exercising it may be controlled or regulated by the Instructions of the Governor General . . .”

14. Section 64 of the *B.N.A. Act* has been cited as authority for the Lieutenant-Governor to sit with the Executive Council as he did in pre-Confederation times. It has nevertheless been held in an opinion from the Deputy Minister of Justice that it is now firmly established constitutional usage that a Lieutenant-Governor should not sit in on deliberations of his Cabinet.

15. Similarly section 64 was quoted in 1950 to support the exercise by a Lieutenant-Governor of the prerogative of mercy, without advice. He was informed that he could not act except on the advice of his constitutional advisors.

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LIEUTENANT-GOVERNOR

Powers and Duties

Formal Instructions (1952 edition) issued to Lieutenant-Governors of provinces other than Quebec

Formal Instructions (1952 edition) issued to Lieutenant-Governor of Quebec (in French)

Order in council dated 29 November, 1882 regarding reservation of provincial measures by a Lieutenant-Governor

APPENDICES
LIEUTENANT-GOVERNOR

Status of Lieutenant-Governor when Sovereign or Governor General in Province or when Outside of Province

1. The presence of the Sovereign or the Governor General in the Province does not impair or supersede the authority of the Lieutenant-Governor to perform his functions. The Lieutenant-Governor remains solely empowered to perform acts prescribed by statute to be performed by him as persona designata.

2. The Lieutenant-Governor's position will be affected only to the extent that the Sovereign or the Governor General may be called upon to officiate at specific functions.

3. The Sovereign and the Governor General nevertheless take precedence over the Lieutenant-Governor at any function which they may attend together.

4. It is not clear to what extent a Lieutenant-Governor can be regarded as the Queen's representative when he is outside Canada or his own Province.

5. Instructions have been issued that Lieutenant-Governors travelling abroad in a private capacity should be treated as distinguished private citizens.

6. There is no instance of a Lieutenant-Governor making a recognized official trip abroad.

7. When in the United Kingdom the official status of a Lieutenant-Governor may be recognized to the extent that the Queen may, if convenient, receive him on an informal basis.

8. The Guide to Relative Precedence at Ottawa fixes the precedence of Lieutenant-Governors when in Ottawa. This is based on a recognition of their representative character even while absent from their Province.
LIEUTENANT-GOVERNOR

Status of Lieutenant-Governor when
Sovereign or Governor General in
Province or when Outside of Province

1. It is considered quite proper that the Lieutenant-Governor should attend
important public functions in his Province at which the Sovereign or the
Governor General is present, even though they would take precedence over
him.

2. The status of a Lieutenant-Governor when outside his Province has only
been settled for visits to Ottawa on official occasions.

3. Otherwise a Lieutenant-Governor's duties are normally confined to his
Province and it has not been found necessary to draw up rules governing his
status elsewhere in Canada.

4. Lieutenant-Governors have, on at least two occasions, travelled abroad in
circumstances where recognition of their official status was a consideration
in the arrangements. Ottawa has not acknowledged that such trips can be
made in anything but a private capacity and has attempted to regulate this
by requesting that information regarding the proposed itinerary be given
when leave of absence is requested.
LIEUTENANT-GOVERNOR

Indemnity

1. According to the *B.N.A. Act* Parliament is responsible for the salary of Lieutenant-Governors.

2. The present schedule* of salaries was approved by Cabinet and provided in the Estimates of 1963.

3. Since 1951 the Estimates have also provided a travel and hospitality allowance* for Lieutenant-Governors. These were last adjusted in 1964.

4. Some provinces also provide accommodation, facilities, services and additional funds for operating or entertainment expenses. The federal Government is not concerned with such arrangements.

5. There is no provision for a pension for Lieutenant-Governors although the question has been examined on several occasions.
LIEUTENANT-GOVERNOR

Indemnity

1. The salaries provided for Lieutenant-Governors have not been changed often. There was no adjustment between 1927 and 1953 except for Prince Edward Island, and the present schedule* which reflects the different size of the provinces is arrived at arbitrarily rather than by the application of any formula.

2. Allowances* for travel and hospitality have only been provided since 1951.

3. Neither salary nor allowances take into account what the Province may provide by way of administrative or financial assistance. This varies enormously and gives the provinces a means of influencing the extent of the Lieutenant-Governor’s participation in public and ceremonial functions.

II—BACKGROUND
Indemnity

Schedule of salaries for Lieutenant-Governors; together with schedule of federal hospitality and travelling allowances
LIEUTENANT-GOVERNOR

Provincial Administrator

I—Position

1. An Administrator is appointed by order in council* recommended by the Secretary of State to execute the functions of the Lieutenant-Governor.

2. The standing appointment is at pleasure and is effective regardless of who occupies the office of Lieutenant-Governor. The Administrator cannot act when the post of Lieutenant-Governor is vacant.

3. It is customary to appoint the Chief Justice of the Province to be the Administrator but there have been many exceptions. The provincial Premier is usually consulted by the Secretary of State.

4. In the absence or incapacity of the Administrator another is appointed on a temporary basis by order in council* on the recommendation of the Secretary of State. On his return the regular Administrator would be reappointed by order.

5. The Administrator must take the prescribed oaths* before assuming the duties of his office. These oaths are taken either on appointment or on first assuming office. If however the appointment has been interrupted by the appointment of a replacement the Administrator must be re-sworn on reappointment.

6. While the appointment is effected by order in council the Public Officers Act specifies that a commission* shall issue to a provincial Administrator.

7. The appointment of the Administrator may be terminated by the order in council* appointing his successor.
Provincial Administrator

II—BACKGROUND

1. Before 1953 an Administrator was appointed by order in council each occasion the necessity arose. The decision was taken in 1953 to appoint the Chief Justice of the Province to be the Administrator on a standing basis. The provinces were consulted and all agreed except British Columbia who wanted the Administrator appointed for a period of a year. In 1958 the practice was extended to British Columbia as well.

2. The provincial Administrator is appointed by virtue of section 67 of the B.N.A. Act in case of “Absence, Illness, or other Inability”. This has been interpreted by the Department of Justice to preclude an Administrator from acting if the post of Lieutenant-Governor is vacant.

3. An attempt was made to find a way around this difficulty in 1872 by appointing Administrators to be temporary Lieutenant-Governors in the event of the incumbents' deaths. The Minister of Justice gave the opinion* in 1967 that these appointments as succeeding Lieutenant-Governors, which did not become effective, would have been subject to section 59 of the B.N.A. Act regardless of the language in the order.

4. The appointment of an Administrator remains valid even if he should cease to hold the position he occupied when appointed.

5. The Department of Justice has given the opinion that it would be contrary to the B.N.A. Act to appoint an alternate Administrator to act in the absence or incapacity of both Lieutenant-Governor and Administrator.

6. In the opinion of the Department of Justice it is doubtful that the B.N.A. Act envisaged the concurrent appointment of two or more Administrators. Therefore the advice was to appoint only one Administrator.

7. The position of the provincial Administrator in regard to oaths of office is different from that of the federal Administrator who is not vested with the powers until the oaths are taken on each occasion. Once a provincial Administrator has taken the oaths* he can assume his functions when the circumstances arise without renewing the oaths.
LIEUTENANT-GOVERNOR

Provincial Administrator

1. The Secretary of State recommends the appointment of the Administrator which is made by order in council*.

2. All correspondence with the provinces on this matter is the responsibility of the Secretary of State.
LIEUTENANT-GOVERNOR

Provincial Administrator

Order in council appointing Administrator on standing basis

Order in council appointing temporary Administrator

Commission issued to Administrator

Oaths taken by Administrator

Justice opinion dated 4 October, 1967 regarding Administrators appointed as provisional Lieutenant-Governors
Appointent, Extension and Replacement

Letter from Prime Minister to outgoing Lieutenant-Governor ........................................ 445
Order in council for issue of commission of appointment as Lieutenant-Governor when predecessor is in office .................................................................................. 446
Order in council for issue of commission of appointment as Lieutenant-Governor when predecessor has died ................................................................. 447
Commission of appointment as Lieutenant-Governor; together with annexed Instructions ........................................................................................................ 448
Letter from Clerk of Privy Council to appointee outlining arrangements for assuming office ..................................................................................................... 449
Letter from Clerk of Privy Council to Chief Justice of Province asking him to administer oaths to appointee .......................................................... 450
Letter from Clerk of Privy Council to provincial Premier advising him of proposed arrangements for induction of new Lieutenant-Governor .......... 451
Letter from Clerk of Privy Council to Clerk of Executive Council asking him to co-ordinate arrangements for induction of new Lieutenant-Governor 452
Order in council of 9 June, 1945 appointing Fiset as Lieutenant-Governor of Quebec (reappointment) ................................................................. 453
Letter from Prime Minister to Lieutenant-Governor regarding extension of the latter's term of office ................................................................. 454
Order in council for acceptance of resignation of Lieutenant-Governor .......... 455
Oaths taken by Lieutenant-Governor of province other than Quebec .......... 456
Oaths taken by Lieutenant-Governor of Quebec ......................................................... 457
Letter from Prime Minister to Outgoing Lieutenant-Governor

OFFICE OF THE PRIME MINISTER - CABINET DU PREMIER MINISTRE

Personal


My dear Lieutenant-Governor

Will you please accept my apologies for the delay in replying to your letter of April 17th in which you informed me that you felt the time had come to retire on June 6th from the office which you have filled with such distinction and success for seven years.

I would have been very happy if you had been able to remain in office, and I know the people of your Province would have shared my satisfaction, but I quite understand your desire to retire in view of the fact that you have already served beyond the normal term of five years. The date of June 6th will be quite satisfactory from my point of view.

It remains for me to thank you very warmly and sincerely for the services you have rendered to your Province and its people as Lieutenant-Governor. I know from a variety of evidence how greatly those services have been appreciated in New Brunswick. I would also like to include, in this expression of thanks, your wife, who, I am sure you will be the first to admit, has contributed so largely to the great success you have achieved in the office which you will soon be vacating.

My kindest personal regards to you both,

Yours sincerely,

(Sgd.) L.B. PEARSON

The Honourable J. Leonard O'Brien,
Lieutenant-Governor of New Brunswick,
Government House,
South Nelson, N.B.
Order in Council for Issue of Commission of Appointment as Lieutenant-Governor when Predecessor is in Office

CANADA
PRIVY COUNCIL

P.C. 1965-2251

Certified to be a true copy of a Minute of a Meeting of the Committee of the Privy Council, approved by His Excellency the Governor General on December 7, 1965.

The Committee of the Privy Council have had before them a report from the Right Honourable Lester Bowles Pearson, the Prime Minister, stating that by Commission dated the 19th day of December, 1959, the Honourable J. Percy Page was appointed Lieutenant-Governor of the Province of Alberta; and

That the said the Honourable J. Percy Page made and subscribed the Oaths of Allegiance and Office prescribed by section 61 of the British North America Act and assumed the duties of the said Office on the 21st day of December, 1959.

The Committee, therefore, on the recommendation of the Prime Minister, advise that a Commission under the Great Seal of Canada do issue appointing J.W. Grant MacEwan, Esquire, of the City of Calgary, in the Province of Alberta, to be Lieutenant-Governor of the Province of Alberta, and that, from the date on which the said J.W. Grant MacEwan makes and subscribes the Oaths of Allegiance and Office prescribed by section 61 of the British North America Act, the Commission issued hereunder shall supersede the Commission appointing the Honourable J. Percy Page, to be Lieutenant-Governor of the said Province.

(Sgd.) R.G. ROBERTSON
Clerk of the Privy Council

446
Order in Council for Issue of Commission of Appointment as Lieutenant-Governor when Predecessor has died

CANADA
PRIVY COUNCIL

P.C. 1245

Certified to be a true copy of a Minute of a Meeting of the Committee of the Privy Council, approved by His Excellency the Governor General on March 23, 1948.

The Committee of the Privy Council, on the recommendation of the Right Honourable W.L. Mackenzie King, the Prime Minister, advise that a commission do issue appointing John M. Uhrich, Esquire, M.D., of Regina, in the Province of Saskatchewan, to be Lieutenant-Governor of the said Province of Saskatchewan, vice the Honourable R.J.M. Parker, deceased.

The Committee, on the same recommendation, further advise that upon the said John M. Uhrich having taken the prescribed oaths of office and entered upon the duties of Lieutenant-Governor of the said Province, the Commission issued hereunder do supersede the Commission issued on the 22nd June, 1945, to the Honourable R.J.M. Parker, appointing him to be the Lieutenant-Governor of the said Province.

(Sgd.) R.G. ROBERTSON

Clerk of the Privy Council
Commission of Appointment as Lieutenant-Governor; together with
Annexed Instructions

Canada (Sgd.) Georges P. Vanier

Elizabeth the Second, by the Grace
of God of the United Kingdom, Canada and
Her other Realms and Territories QUEEN, Head
of the Commonwealth, Defender of the Faith.

TO

J. W. GRANT MacEWAN,
Esquire,
of the City of Calgary, in the Province of Alberta,

GREETING:

KNOW YOU that reposing special trust and confidence in your prudence, courage, loyalty,
integrity and ability, We by and with the advice of Our Privy Council for Canada, do hereby constitute
and appoint you the said J. W. Grant MacEwan to be

LIEUTENANT GOVERNOR IN AND FOR THE PROVINCE OF ALBERTA,
one of the Provinces of Canada, during the will and pleasure of Our Governor General of Canada
from the date on which you the said J. W. Grant MacEwan make and subscribe the Oaths of Allegiance
and Office prescribed by section 61 of The British North America Act, 1867.

AND WE DO HEREBY authorize and empower and command you the said J. W. Grant MacEwan
in due manner to do and execute all things that shall belong to your said command, and the trust We
have reposed in you, according to the several powers, provisions and directions granted or appointed
you by virtue of the Act of the Parliament of the United Kingdom of Great Britain and Ireland,
passed in the Thirtieth year of Her late Majesty’s Reign, called and known as “The British North
America Act, 1867”, and of all other Statutes in that behalf and of this Our present Commission,
according to such instructions as are herewith given to you and hereunto annexed1 or which may
from time to time be given to you, in respect of the said Province of Alberta under the sign manual of
Our Governor General of Canada, or by order of Our Privy Council for Canada and according to such
Laws as are or may be in force within the said Province of Alberta.

AND WE DO HEREBY further appoint that so soon as you shall have taken the prescribed
oaths and entered upon the duties of your office, this Our present Commission shall supersede Our
Commission under the Great Seal of Canada, bearing date the nineteenth day of December, in the
year of Our Lord one thousand nine hundred and fifty-nine, appointing the Honourable J. Percy Page
to be Lieutenant Governor in and for the Province of Alberta.

IN TESTIMONY WHEREOF, We have caused these Our Letters to be made Patent and the
Great Seal of Canada to be hereunto affixed.

WITNESS: Our Right Trusty and Well-beloved Counsellor, General Georges P. Vanier,
a member of Our Most Honourable Privy Council, Companion of Our
Distinguished Service Order upon whom We have conferred Our
Military Cross and Our Canadian Forces’ Decoration, Governor General and
Commander-in-Chief of Canada.

AT OUR GOVERNMENT HOUSE, in Our City of Ottawa, this twenty-ninth day of December
in the year of Our Lord one thousand nine hundred and sixty-five and in the fourteenth year of Our
Reign.

BY COMMAND,

(Sgd.) Lucien Cardin
ATTORNEY GENERAL
OF CANADA

(Sgd.) Judy Lamarsh
SECRETARY OF STATE OF CANADA

[1Not included. See appendices for chapter on “Power and Duties” in this section.]
Ottawa, 20th December, 1965.

Mr. J.W. Grant MacEwan,
8024, 10th Street,
Calgary, Alberta.

Dear Mr. MacEwan:

The Prime Minister has asked me to send to you, herewith, a certified copy of Order in Council P.C. 1965-2251, appointing you to be Lieutenant Governor of the Province of Alberta, effective the date on which you make and subscribe the Oath of Allegiance and Office prescribed by section 61 of the British North America Act.

The Prime Minister has asked me to propose to Mr. Chief Justice S.B. Smith that he preside over the swearing-in ceremony and administer the oaths to you. I have sent him the form which you are to swear and subscribe. Your commission and instructions are being forwarded by the Secretary of State of Canada to the Clerk of the Executive Council, who is being requested to communicate in due course with you, with Mr. Chief Justice Smith and with Premier Manning in connection with arrangements for the swearing-in ceremony to be held on the 3rd or 4th of January, 1966, whichever is convenient.

Yours sincerely,

(Sgd.) R.G. ROBERTSON
Clerk of the Privy Council
Letter from Clerk of Privy Council to Chief Justice of Province regarding Administration of Oaths to New Lieutenant-Governor

Ottawa, 20th December, 1965.

The Honourable S.B. Smith,
Chief Justice of the Province of Alberta,
Edmonton, Alberta.

My dear Chief Justice:

I am sending to you, herewith, a certified copy of Order in Council P.C. 1965-2251, appointing Mr. J.W. Grant MacEwan to be Lieutenant Governor of the Province of Alberta.

The Prime Minister has asked if you would be good enough to administer the required oaths of allegiance and of office to the Lieutenant Governor-designate. The prescribed form of the oaths is enclosed; it should be returned here for our records when completed.

The Lieutenant Governor's commission and instructions are being forwarded to the Clerk of the Executive Council, who is being requested to get in touch with you, with Premier Manning and with Mr. MacEwan in connection with arrangements for the swearing-in ceremony to be held on 3rd or 4th of January, 1966, whichever is convenient.

Yours sincerely,

(Sgd.) R.G. ROBERTSON
Clerk of the Privy Council
Ottawa, 20th December, 1965.

The Honourable E.C. Manning,
Premier of the Province of Alberta,
Edmonton, Alberta.

My dear Premier:

I am sending to you, herewith, a certified copy of Order in Council P.C. 1965-2251, appointing Mr. J.W. Grant MacEwan to be Lieutenant Governor of the Province of Alberta.

At Mr. Pearson’s request, I am proposing to the Honourable S.B. Smith, Chief Justice of the Province of Alberta, that he administer the oaths of allegiance and office to the Lieutenant Governor-designate. I am also asking the Clerk of the Executive Council to keep in touch with you, with Mr. Chief Justice Smith and with Mr. MacEwan in connection with the arrangements for the swearing-in ceremony to be held on the 3rd or 4th of January, 1966, whichever is convenient.

Yours sincerely,

(Sgd.) R.G. ROBERTSON
Clerk of the Privy Council
Letter from Clerk of Privy Council to Clerk of Executive Council regarding Co-ordination of Arrangements for Induction of New Lieutenant-Governor

Ottawa, 20th December, 1965.

Mr. R. Crevolin,
Clerk of the Executive Council,
Province of Alberta,
Edmonton, Alberta.

Dear Mr. Crevolin:

I am sending to you, herewith, a certified copy of Order in Council P.C. 1965-2251, appointing Mr. J.W. Grant MacEwan to be Lieutenant Governor of the Province of Alberta.

On the Prime Minister’s instructions, I have requested Mr. Chief Justice Smith to administer the necessary oaths to Mr. MacEwan and I am sending to him forms to be used at that time. The commission and the Lieutenant Governor’s instructions will be sent to you in due course by the Secretary of State of Canada.

I should appreciate your getting in touch with Mr. Chief Justice Smith, with Premier Manning and with the Lieutenant Governor-designate, and rendering such assistance as is necessary in connection with the swearing-in ceremony to be held on the 3rd or 4th of January, 1966, whichever date is convenient for all concerned.

Yours sincerely,

(Sgd.) R.G. ROBERTSON
Clerk of the Privy Council
Order in Council of 9 June, 1945 appointing Sir Eugène Fiset as Lieutenant-Governor of Quebec (Reappointment)

CANADA
PRIVY COUNCIL

P.C. 4137

Certified to be a true copy of a Minute of a Meeting of the Committee of the Privy Council, approved by His Excellency the Governor General on June 9, 1945.

The Committee of the Privy Council, on the recommendation of the Right Honourable W.L. Mackenzie King, the Prime Minister, advise that a commission do issue appointing Major-General the Honourable Sir Eugène Marie Joseph Fiset, K.B., C.M.G., D.S.O., M.D., to be Lieutenant-Governor of the Province of Quebec.

The Committee further advise that upon the said Major-General the Honourable Sir Eugène Marie Joseph Fiset having taken the prescribed oaths and entered upon the duties of his office, the Commission issued hereunder do supersede the commission dated the 30th day of December, 1939, appointing him to be the Lieutenant-Governor of the Province of Quebec.

(Sgd.) R.G. ROBERTSON
Clerk of the Privy Council

My dear Lieutenant-Governor:

This is to confirm our telephone conversation of Friday last, in which you indicated that you were prepared to carry on as Lieutenant-Governor of Manitoba until the end of June.

I need hardly say that you and Mrs. Willis have brought grace and distinction to your term and I am glad that you are willing to continue in office for this further period.

Yours sincerely,

(Sgd.) L.B. PEARSON

The Honourable Errick F. Willis,
Lieutenant-Governor of Manitoba,
Winnipeg,
Manitoba.
Order in Council for Acceptance of Resignation of Lieutenant-Governor

CANADA
PRIVY COUNCIL

P.C. 1968–184

Certified to be a true copy of a Minute of a Meeting of the Committee of the Privy Council, approved by His Excellency the Governor General on January 31, 1968.

The Committee of the Privy Council, on the recommendation of the Prime Minister, advise that Your Excellency may be pleased hereby to accept, effective January 31, 1968, the resignation of the Honourable John Babbitt McNair as Lieutenant-Governor of the Province of New Brunswick to which office he was appointed by Instrument under the Great Seal of Canada pursuant to Order in Council P.C. 1965–995 of 1st June, 1965.

(Sgd.) R.G. ROBERTSON
Clerk of the Privy Council
Oaths taken by Lieutenant-Governor of Province other than Quebec

OATH OF ALLEGIANCE

I, ................., do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, her heirs and successors according to law.

So help me God.

........................................

OATHS OF OFFICE

I shall well and truly execute the office and trust of Lieutenant-Governor of the Province of ............... and duly and impartially administer Justice therein.

I shall well and truly execute the office and trust of Keeper of the Great Seal of Her Majesty's Province of ............... according to the best of my knowledge and ability.

So help me God.

........................................

The above oaths were taken and subscribed by

........................................
as Lieutenant-Governor of the Province of ......

........................................ before me at the City of ............... this .... day of ..........

........................................

Chief Justice of the ..................

Province of ..................
Oaths taken by Lieutenant-Governor of Quebec

LIEUTENANT-GOUVERNEUR
DE LA PROVINCE DE QUÉBEC

Serment d’Allégeance

Je, .................., jure d’être fidèle et de porter sincère allégeance à Sa Majesté la Reine Elisabeth II, à Ses Héritiers et à Ses Successeurs, en conformité de la loi.

Ainsi Dieu me soit en aide.

........................

Serments d’Office

Je remplirai bien et fidèlement la charge et le mandat de Lieutenant-gouverneur de la province de Québec et j’y administrerai la justice avec exactitude et impartialité.

Je remplirai bien et fidèlement la charge de gardien du Grand Sceau de la province de Québec, domaine de Sa Majesté, au meilleur de ma connaissance et de mon habileté.

Ainsi Dieu me soit en aide.

........................

Les serments ci-dessus ont été prêtés et souscrits
par l’honorable ......................
........................
........................
........................
........................
........................

................

Juge en chef de la province de Québec
## LIEUTENANT-GOVERNOR

**Removal**

<table>
<thead>
<tr>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Order in council for removal of Lieutenant-Governor</td>
<td>461</td>
</tr>
<tr>
<td>Extract from <em>Journals of the Senate</em> regarding message to Senate communi-</td>
<td>462</td>
</tr>
<tr>
<td>cating cause of removal of Lieutenant-Governor</td>
<td></td>
</tr>
</tbody>
</table>
Order in Council for Removal of Lieutenant-Governor

CANADA
PRIVY COUNCIL

P.C. 1588

Certified to be a true copy of a Minute of a Meeting of the Committee of the Privy Council, approved by His Excellency the Governor General on June 21, 1900.

On a memorandum dated 20th June, 1900 from the Right Honourable Sir Wilfrid Laurier, stating that the action of the Lieutenant-Governor of British Columbia in dismissing his Ministers has not been approved by the people of that Province, and further that in view of recent events in the said Province of British Columbia it is evident that the Government of that Province cannot be successfully carried on in the manner contemplated by the constitution, under the administration of the present Lieutenant-Governor, His Honour Thomas R. McInnes, whose official conduct has been subversive of the principles of responsible government.

The Right Honourable the Premier submits that therefore Mr. McInnes’ usefulness as Lieutenant-Governor of British Columbia is gone, and he recommends that Mr. McInnes be removed from the said office, and that the cause to be assigned for such removal under the provisions of section 59 of the British North America Act shall be the matters set forth in this Minute.

The Committee submit the foregoing for Your Excellency’s approval.

(Sgd.) R.G. ROBERTSON
Clerk of the Privy Council
Extract from Journals of the Senate for 27 June, 1900 regarding Message to Senate communicating Cause of Removal of Lieutenant-Governor

The Honourable Mr. Mills, Minister of Justice, informed the Senate that he had a Message from His Excellency the Governor General, which His Excellency had commanded him to deliver to the Senate.

The same was then read by the Clerk, and it is as follows:—

H.G. TASCHEREAU,
Deputy Governor.

The Governor General transmits to the Senate, under the provisions of the 59th Clause of "The British North America Act, 1867," a certified copy of an Order of the Privy Council, dated 21st June, 1900, containing the cause assigned for the removal of the Honourable Thomas Robert McInnes from his office of Lieutenant-Governor of the Province of British Columbia.

GOVERNMENT HOUSE,
OTTAWA, 27th June, 1900.

Privy Council, { 
Canada. } 1588.

EXTRACT from a Report of the Committee of the Honourable the Privy Council, approved by His Excellency on the 21st June, 1900.

On a memorandum dated 20th June, 1900, from the Right Honourable Sir Wilfrid Laurier, stating that the action of the Lieutenant-Governor of British Columbia in dismissing his ministers has not been approved by the people of that Province, and further, that in view of recent events in the said Province of British Columbia, it is evident that the Government of that Province cannot be successfully carried on in the manner contemplated by the Constitution, under the Administration of the present Lieutenant-Governor, His Honour Thomas R. McInnes, whose official conduct has been subversive of the principles of responsible Government.

The Right Honourable the Premier submits that therefore Mr. McInnes' usefulness as Lieutenant-Governor of British Columbia is gone, and he recommends that Mr. McInnes be removed from the said office, and that the cause to be assigned for such removal under the provisions of Section 59 of the British North America Act shall be the matter set forth in this Minute.

The Committee submit the foregoing for Your Excellency's approval.

JOHN J. McGEE,
Clerk of the Privy Council.
Powers and Duties

Formal Instructions (1952 edition) issued to Lieutenant-Governors of provinces other than Quebec .................................................. 465

Formal Instructions (1952 edition) issued to Lieutenant-Governor of Quebec (in French) ............................................................. 467

Order in council dated 29 November, 1882 regarding reservation of provincial measures by a Lieutenant-Governor .................................................. 469
Formal Instructions issued to Lieutenant-Governors of Provinces other than Quebec

CANADA

Instructions to the Lieutenant Governor or other Chief Executive Officer or Administrator for the time being, carrying on the Government of the Province of

WHEREAS it is enacted in and by "The British North America Act, 1867," that for each Province there shall be an Officer, styled the Lieutenant Governor, appointed by the Governor General in Council by instrument under the Great Seal of Canada; and whereas, by and with the advice of the Queen's Privy Council for Canada, I have, by Commission under the Great Seal of Canada, constituted and appointed to be Lieutenant Governor in and over the said Province of , one of the Provinces of Canada, and thereby authorized and empowered and commanded him in due manner, to do and execute all things belonging to his said command and trust according to the several powers, provisions and directions granted or appointed to him by virtue of the said Act, and of all other Statutes in that behalf, and of the said Commission, according to such instructions as were with the said Commission given unto him, or which might, from time to time, be given to him in respect to the said Province of under my Sign Manual or by order of the Queen's Privy Council for Canada, and according to such laws as are or may be in force within the said Province of

I. Now, therefore, I do by these my Instructions under my Sign Manual, by and with the advice of the Queen's Privy Council for Canada, declare my pleasure to be that the Lieutenant Governor of the Province of , for the time being, shall, with all due solemnity, cause the said Commission under the Great Seal of Canada, appointing him Lieutenant Governor, to be read and published in the presence of the Chief Justice for the time being or other Judge of the Supreme Court (or, as the case may be) of the said Province and of the members of the Executive Council in the said Province.

II. And I do further declare my pleasure to be that the Lieutenant Governor and every other officer appointed to administer the Government of the said Province, shall take the oath of allegiance in the form provided by the said Act,
and likewise that he or they shall take the usual oaths for the due execution of the office of Lieutenant Governor, which oaths the said Chief Justice for the time being of the said Province (or Court, as the case may be), or in his absence, or in the event of his being otherwise incapacitated, any Judge of the Supreme Court (or other Court, as the case may be) of the said Province, or in the case of emergency any one duly commissioned by me, shall and is hereby required to tender or administer unto him or them.

III. And I do authorize and require the Lieutenant Governor, from time to time, to administer to all and every person or persons, to whom he is by the said Act directed to administer the same, the said oath of allegiance and generally to administer such other oath or oaths as he lawfully may, and as may from time to time be prescribed by any Laws or Statutes in that behalf provided.

IV. The Lieutenant Governor is to take care that all Laws assented to by him in my name, or reserved for signification of my pleasure thereon, shall, when transmitted by him, be fairly abstracted in the margin, and be accompanied in such cases as may seem to him necessary, with such explanatory observations as may be required to exhibit the reasons and occasions for proposing such Laws.

V. The Lieutenant Governor shall, within ten days after the prorogation of the Legislature or after adjournment of the Legislature for a period of more than ten days or for an indefinite period, send an authentic copy of each Act to which he has assented during the session of the Legislature or during the session of the Legislature prior to the commencement of the adjournment, as the case may be, to the Secretary of State of Canada.

VI. The Lieutenant Governor, on receipt of a copy of an Order in Council disallowing an Act with my certificate of the date on which the Act was received by me, shall forthwith make proclamation in the said Province of such certificate, and of the disallowance of the said Act.

VII. The Lieutenant Governor shall not quit the Province without having first obtained leave from me for so doing, under my Sign Manual, or through the Secretary of State of Canada.

AUGUST, 1952.
Considérant qu’aux termes et en exécution de l’Acte de l’Amérique du Nord britannique, 1867, il y a, pour chaque province, un fonctionnaire appelé lieutenant-gouverneur, que le gouverneur général en conseil nomme par instrument sous le Grand Sceau du Canada; et considérant que, sur l'avis du Conseil privé de la Reine pour le Canada, j'ai par commission sous le Grand Sceau du Canada, constitué et nommé lieutenant-gouverneur dans et sur ladite province de Québec, l'une des provinces du Canada, et que je lui ai ainsi donné, dans les formes voulues, l'autorisation, le pouvoir et l'ordre de faire et d'accomplir tout ce qui ressortit à ses commande- ment et charge, selon les diverses facultés, prescriptions et directives qui lui sont accordées ou assignées en vertu dudit Acte et de toutes autres lois pertinentes, et de ladite commission, en conformité des instructions qui lui furent transmises avec ladite commission ou qui pourraient, à l'occasion, lui être données relative- ment à ladite province de Québec, sous mon seing ou par ordre du Conseil privé de la Reine pour le Canada, et d'accord avec les lois qui sont ou qui peuvent être en vigueur dans ladite province de Québec.

I. A ces causes, je déclare, par les présentes instructions sous mon seing, sur l'avis du Conseil privé de la Reine pour le Canada, qu'il me plaît de mander que le lieutenant-gouverneur de la province de Québec, alors en fonctions, fasse lire et publier ladite commission sous le Grand Sceau du Canada, le nommant lieutenant-gouverneur, avec la solennité voulue, en présence du juge en chef alors en fonctions ou autre juge de la Cour suprême (ou, selon le cas) de ladite province et des membres du Conseil exécutif de cette dernière.

II. Et je déclare qu'il me plaît, en outre, de mander que le lieutenant-gouverneur et tout autre fonctionnaire nommé pour administrer le gouvernement de ladite province prétent le serment d'allégeance en la forme prévue par ledit Acte et, de même, qu'ils prêttent, lui ou les personnes susmentionnées, les serments habituels pour le bon exercice de la charge de lieutenant-gouverneur. Le juge en chef de ladite province (ou de la cour, selon le cas), alors en fonctions, ou, s'il est absent ou autrement rendu incapable, tout juge de la Cour suprême (ou de l'autre cour, selon le cas) de ladite province ou, en cas d'urgence, toute
personne par moi dûment nommée doit lui déférer ou faire prêter, ou leur déférer ou faire prêter, les serments susvisés, et y est par les présentes astreint.

III. Et je donne pouvoir au lieutenant-gouverneur, et le requiers, de faire prêter à l'occasion ledit serment d'allégeance à chaque personne et à toutes les personnes auxquelles ledit Acte lui enjoint de le déférer; et à tout membre du Conseil législatif de Québec, la déclaration d'aptitude prescrite par ledit Acte et, de façon générale, de faire prêter tel autre ou tels autres serments qu'il peut légalement déférer et qui peuvent être, de temps à autre, prescrits par quelque loi ou statut édicté à cette fin.

IV. Le lieutenant-gouverneur doit veiller à ce que toutes les lois sanctionnées par lui en mon nom, ou réservées pour la notification de mon bon plaisir à leur égard, soient, lorsqu'il les transmet, raisonnablement résumées en marge et soient accompagnées, au besoin, d'observations explicatives exposant les raisons et les motifs de la présentation de ces lois.

V. Le lieutenant-gouverneur doit, dans les dix jours qui suivent la prorogation de la Législature ou après l'ajournement de la Législature pour une période d'au plus dix jours ou pour une période indéfinie, transmettre au Secrétaire d'État du Canada une copie authentique de chaque loi qu'il a sanctionnée durant la session de la Législature ou durant la session de la Législature antérieure au début de l'ajournement, selon le cas. [Le lieutenant-gouverneur ne doit sanctionner un bill modifiant les limites de quelque division ou district électoral mentionné dans la deuxième annexe audit Acte que si l'Assemblée législative lui a présenté une adresse déclarant que le bill a franchi les étapes des deuxième et troisième lectures à l'Assemblée législative, avec l'assentiment de la majorité des députés représentant toutes les divisions ou tous les districts électoraux mentionnés dans l'annexe en question.]

VI. Dès la réception d'une copie d'un arrêté en conseil annulant une loi avec mon certificat de la date où j'ai reçu la loi, le lieutenant-gouverneur doit faire, dans ladite province, une proclamation de ce certificat et de l'annulation de cette loi.

VII. Le lieutenant-gouverneur ne doit pas quitter la province sans en avoir obtenu la permission de ma part, sous mon seing, ou par l'entremise du Secrétaire d'État du Canada.

Août 1952.
Order in Council of 29 November, 1882 regarding Reservation of Provincial Measures by Lieutenant-Governor

CANADA
PRIVY COUNCIL

P.C. 2284

Certified to be a true copy of a Minute of a Meeting of the Committee of the Privy Council, approved by His Excellency the Governor General on November 29, 1882.

The Committee of Council deem it their duty to call the attention of Your Excellency to the fact that in several Provinces, Bills passed by the Legislature have been reserved for the Governor General's assent by their Lieutenant Governors on the advice of their Ministers.

This practice is at variance with those principles of Constitutional Government which obtain in England, and should be carried out in Canada and its Provinces.

As the relations between the Governor General and his responsible advisers, as well as his position as an Imperial Officer, are similar to the relations of a Lieutenant Governor with his Ministers and his position as a Dominion Officer, it is only necessary to define the duties and responsibilities of the former in order to ascertain those of a Lieutenant Governor.

Now it is clear that since the concession of Responsible Government to the Colonies, the Advisers of the Governor General hold the same position with regard to him, as the Imperial Ministry does with respect to Her Majesty. They have the same powers and duties and responsibilities. They ought not to have and of right have not any greater authority with respect to the Legislation of the Canadian Parliament than the Queen's Ministers have over the Legislative action of the Imperial Legislature.

Now in England the Ministry of the day must of necessity have the confidence of the majority in the popular branch of the Legislature, and therefore they generally control, or rather direct, current legislation.

Should however any Bill be passed notwithstanding their opposition or adverse opinion, they cannot advise its rejection by the Sovereign.

The power of veto by the Crown is now admitted to be obsolete and practically non-existent. The expression 'Le Roi' or 'La Reine s'avisera', has not been heard in the British Parliament since 1707, in the reign of Queen Anne, and will in all probability never be heard again. The Ministers in such cases if they decline to accept the responsibility of submitting the Bill for the royal assent must resign and leave to others the duty of doing so.
If notwithstanding their adverse opinion they do not think the measure such as to call for their resignation, they must submit to the Will of Parliament and advise the Sovereign to give the royal assent to it.

Under the same circumstances Your Excellency’s Advisers must pursue the same course.

The right of reserving Bills for the royal assent, conferred by the British North America Act, was not given for the purpose of increasing the power of the Canadian Ministers or enabling them to evade the Constitutional duty above referred to.

This power was given to the Governor General as an Imperial Officer and for the protection of Imperial interests. It arises from our position as a dependency of the Empire, and to prevent legislation which in the opinion of the Imperial Government is opposed to the welfare of the Empire or its policy.

For the exercise of this power the Governor General, with or without instructions from Her Majesty’s Government, is responsible only to the British Government and Parliament, and should the Canadian Government or Parliament deem at any time that the power has been exercised oppressively, improperly or without due regard to the interests of the Dominion, their only course is to appeal to the Crown and eventually to the British Parliament for redress.

As has already been stated, the same principles and reasons apply, mutatis mutandis, to Provincial Governments and Legislatures.

The Lieutenant Governor is not warranted in reserving any measure for the assent of the Governor General on the advice of his Ministers.

He should do so in his capacity of a Dominion Officer only and on instructions from the Governor General. It is only in a case of extreme necessity that a Lieutenant Governor should without such instructions exercise his discretion as a Dominion Officer in reserving a Bill. In fact, with the facility of communication between the Dominion and Provincial Governments such a necessity can seldom if ever arise.

If this Minute be concurred in by Your Excellency, the Committee of Council recommend that it be transmitted to the Lieutenant Governors of the several Provinces of the Dominion for their instruction and guidance.

(Sgd.) R.G. ROBERTSON
Clerk of the Privy Council
LIEUTENANT-GOVERNOR

Indemnity

Schedule of salaries for Lieutenant-Governors; together with schedule of federal hospitality and travelling allowances .......................................................... 473

471
Schedule of Salaries and of Federal Hospitality and Travelling Allowances for Lieutenant-Governors

Schedule of salaries for Lieutenant-Governors (1967-68)

- Ontario, Quebec: $20,000
- Prince Edward Island: $16,000
- All other Provinces: $18,000

Schedule of federal hospitality and travelling allowances for Lieutenant-Governors (1967-68)

- Ontario, Quebec, British Columbia: $18,000
- Alberta, Saskatchewan, Manitoba: $15,000
- Nova Scotia, New Brunswick, Newfoundland: $12,000
- Prince Edward Island: $10,000
LIEUTENANT-GOVERNOR

Provincial Administrator

Order in council appointing Administrator on standing basis .................................. 477
Order in council appointing temporary Administrator ............................................... 478
Commission issued to Administrator ......................................................................... 479
Oaths taken by Administrator ....................................................................................... 480

Justice opinion dated 4 October, 1967 regarding Administrators appointed as provisional Lieutenant-Governors ......................................................... 481
Order in Council appointing Administrator on Standing Basis

CANADA
PRIVY COUNCIL

P.C. 1966-583

AT THE GOVERNMENT HOUSE AT OTTAWA

THURSDAY, the 31st day of MARCH, 1966.

PRESENT:

HIS EXCELLENCY

THE GOVERNOR GENERAL IN COUNCIL.

His Excellency the Governor General in Council, on the recommendation of the Secretary of State, pursuant to section 67 of the British North America Act, is pleased hereby to terminate the appointment of the Honourable Calvert Charlton Miller, Chief Justice of the Province of Manitoba, by Order in Council P.C. 1961-451 of 28th March, 1961, as Administrator to execute the office and functions of the Lieutenant-Governor of Manitoba during the absence, illness or other inability of the Lieutenant-Governor, and to appoint the Honourable George Eric Tritschler, Chief Justice of the Court of Queen's Bench of Manitoba, as Administrator to execute the office and functions of Lieutenant-Governor of Manitoba during the absence, illness or other inability of the Lieutenant-Governor.

Certified to be a true copy

(Sgd.) R.G. ROBERTSON
Clerk of the Privy Council
Order in Council appointing Temporary Administrator

CANADA
PRIVY COUNCIL

P.C. 1966-242

AT THE GOVERNMENT HOUSE AT OTTAWA
TUESDAY, the 8th day of FEBRUARY, 1966.

PRESENT:

HIS EXCELLENCY

THE GOVERNOR GENERAL IN COUNCIL.

His Excellency the Governor General in Council, on the recommendation of the Secretary of State, pursuant to section 67 of the British North America Act, is pleased hereby to terminate the appointment of the Honourable Henry I. Bird, Chief Justice of the Province of British Columbia, by Order in Council P.C. 1964-1348 of 27th August, 1964, as Administrator to execute the office and functions of the Lieutenant-Governor of British Columbia during the absence, illness or other inability of the Lieutenant-Governor, and to appoint the Honourable John Owen Wilson, Chief Justice of the Supreme Court of British Columbia, as Administrator to execute the office and functions of Lieutenant-Governor of British Columbia during the absence, illness or other inability of the Lieutenant-Governor, for the period from February 8 to March 15, 1966, both dates inclusive.

Certified to be a true copy

(Sgd.) R.G. ROBERTSON
Clerk of the Privy Council

478
Commission issued to Provincial Administrator

(Sgd.) Roland Michener

Canada

Elizabeth the Second, by the Grace of God of the United Kingdom, Canada and Her other Realms and Territories QUEEN, Head of the Commonwealth, Defender of the Faith.

TO

THE HONOURABLE HERBERT WILLIAM DAVEY,
Chief Justice of British Columbia,

GREETING:

KNOW YOU that reposing special trust and confidence in your prudence, loyalty, integrity and ability We, by and with the advice of Our Privy Council for Canada did, on the sixth day of July in the year of Our Lord one thousand nine hundred and sixty-seven and in the sixteenth year of Our Reign, constitute and appoint you the said Herbert William Davey to be the ADMINISTRATOR OF THE GOVERNMENT OF THE PROVINCE OF BRITISH COLUMBIA and to execute the office and functions of Lieutenant Governor thereof in the event that the Lieutenant Governor for the time being shall be unable to execute the office and functions of Lieutenant Governor by reason of absence, illness or other inability during Our Pleasure from the sixth day of July in the year of Our Lord one thousand nine hundred and sixty-seven.

AND WE DO HEREBY authorize, empower and require you the said Herbert William Davey to do and execute the said office and functions, and all things that shall belong to your command as such Administrator as aforesaid, and the trust We have so reposed in you in accordance with the laws and statutes in force in Canada in that behalf and with such instructions as have already been or may from time to time be hereafter lawfully given in respect to the said Province of British Columbia and the Government thereof by Order of Our Governor General of Canada under his sign manual, and according to such laws as are or shall be from time to time in force within the said Province.

PROVIDED ALWAYS that you the said Herbert William Davey shall act in the administration of the Government of the said Province only during such period or periods as Our Lieutenant Governor for the time being shall be unable to execute the office and functions of Lieutenant Governor by reason of absence, illness or other inability.

IN TESTIMONY WHEREOF, We have caused these Our Letters to be made Patent and the Great Seal of Canada to be hereunto affixed.

WITNESS: Our Right Trusty and Well-beloved Counsellor, Roland Michener, Chancellor and Principal Companion of Our Order of Canada, Governor General and Commander-in-Chief of Canada.

AT OUR GOVERNMENT HOUSE, in Our City of Ottawa, this tenth day of August in the year of Our Lord one thousand nine hundred and sixty-seven and in the sixteenth year of Our Reign.

BY COMMAND,

(Sgd.) Donald S. Maxwell
DEPUTY ATTORNEY GENERAL

(Sgd.) D.H.W. Henry
DEPUTY REGISTRAR GENERAL OF CANADA

479
Oaths taken by Provincial Administrator

OATH OF ALLEGIANCE

I, .................................................., do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her heirs and successors, according to law.

So help me God.

OATHS OF OFFICE

I shall well and truly execute the office and trust of Administrator of the Government of the Province of ........................................ and duly and impartially administer Justice therein.

I shall well and truly execute the office and trust of Keeper of the Great Seal of Her Majesty’s Province of ................................ according to the best of my knowledge and ability.

So help me God.
Opinion from the Minister of Justice regarding Administrators appointed as Provisional Lieutenant-Governors

MINISTER OF JUSTICE AND ATTORNEY GENERAL OF CANADA

CONFIDENTIAL

Ottawa 4, October 4, 1967.

The Right Honourable Lester B. Pearson, P.C., M.P.,
Prime Minister of Canada,
Ottawa, Ontario.

My dear Prime Minister:

I refer to your letter of July 6, 1967 concerning the difficulties in providing for the functioning of the Office of a Lieutenant Governor during the interval between the death of the incumbent and the selection and appointment of a successor. You refer me to a precedent that occurred in 1872 in relation to the then newly established Provinces of British Columbia and Manitoba and ask for my opinion whether it provides a solution to the problem today.

It is my opinion that had the named gentlemen entered upon the Office, which I am informed was not the case, it would not have been open to the Governor General, except for cause, to bring their tenure of the Office to an end in under five years. It follows then that had the gentlemen assumed Office and declined to resign, the intent expressed in the submission of Sir John Macdonald would have been frustrated.

Generally speaking, I should say that any attempt by the Governor General in Council to establish tenure of the Office of a sort different from that provided for in section 59 of the B.N.A. Act would conflict with that provision of the Constitution and would have no force or effect.

In view of the foregoing, any alternative and workable solution would appear to require an amendment to section 67 of the B.N.A. Act so as to permit the appointment of an Administrator to execute the Office in the event of the death, absence, illness, or other inability of a Lieutenant Governor. In this connection, I should perhaps mention that at least two Provinces, namely Manitoba and Saskatchewan, have requested the amendment of section 67 of the B.N.A. Act to provide for the appointment of two or more Administrators to permit the carrying on of provincial government business in the absence of both the Lieutenant Governor and the Administrator.
I would be pleased to make my officers available for further discussion if further discussion is thought desirable at this time.

Yours sincerely,

(Sgd.) PIERRE E. TRUDEAU

[Note. The “precedent” referred to in the first paragraph of the above letter was the appointment of the Administrator of each Province mentioned to be provisional Lieutenant-Governor of the Province upon the death of the Lieutenant-Governor in office. It was intended that the Administrator would carry out his functions as Lieutenant-Governor only until such time as a new “regular” Lieutenant-Governor could be appointed and take office.]